

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SHARMUS X. EVANS,

Plaintiff,

v.

JOHN D. LAMER, ET AL.,

Defendants.

CIVIL ACTION NO. 3:97-CV-0188

(JUDGE CAPUTO)

MEMORANDUM

Before me is Plaintiff's Notice to the Court and Change of Address. (Doc. 272.) In addition to advising of a change of address, Plaintiff seeks reconsideration of the judgment for costs. (Docs. 270 and 271.) He also seems to be seeking reconsideration of his motion for a new trial which he filed March 1, 2005, which was entitled Motion for New Trial and/or Direct Notice of Appeal. (Doc. 257.) On April 18, 2005, the Court entered a Memorandum Order deeming Plaintiff's Motion for New Trial (Doc. 257) withdrawn for failure to file a supporting brief. (Doc. 266.) Plaintiff's current document states that he filed his motion for new trial and/or direct appeal (Doc. 257) on March 1, 2005, when he was housed at the Lackawanna County Prison in Scranton, Pennsylvania. His current document states he was "transferred enroute back to Liberty Correctional Institution on March 3, 2005, without being given a response from (sic) as to whether he were (sic) granted permission to file a supporting brief/petition to such appeal, or other pleadings." (Doc. 272.)

On February 24, 2005, a jury found in favor of the Defendants on Plaintiffs' *Bivens* claim. Judgment was entered March 11, 2005. The subsequent relevant proceedings are noted above.

DISCUSSION

1. Reconsideration of the Motion for New Trial

Regarding the motion for new trial, Mr. Evans had, by Rule 59 of the Federal Rules of Civil Procedure, 10 days (from entry of judgment, March 11, 2005, or entry of verdict, February 24, 2005), within which to file a notice for a new trial. He filed the motion in a timely fashion on March 1, 2005, but he failed to file a supporting brief, and therefore the motion was deemed withdrawn. (Doc. 266.)

Any motion for reconsideration must be filed within 10 days after the entry of judgment. Here it was not. The rule allowing 10 days for a motion for reconsideration is jurisdictional and cannot be extended. *Amatangelo v. Borough of Donora*, 212 F.3d 776, 780 (3d Cir. 2000)(“an untimely motion for reconsideration is ‘void and of no effect’”)(quoting *United States v. Contents of Accounts Nos 3034504504 and 144-7143*, 971 F.2d 974, 976 (3d Cir. 1992).

Therefore, to the extent that Doc. 272 is a motion for reconsideration, it will be denied.

2. Taxing of Costs

It is apparent that with the transfers, Plaintiff did not receive the relevant documents concerning the taxing of costs. Therefore, Plaintiff’s request to oppose those costs will be permitted. Plaintiff shall have thirty (30) days from the date of the accompanying Order to file objections, evidence supporting his objections, and a brief in support of his objections.

An appropriate Order follows.

Date: December 29, 2005

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SHARMUS X. EVANS,

Plaintiff

v.

JOHN D. LAMER, ET AL.,

Defendants.

NO. 3:97-CV-188

(JUDGE CAPUTO)

ORDER

NOW, this 29th day of December, 2005, **IT IS HEREBY ORDERED** as follows:

1. To the extent that Plaintiff's Notice to the Court and Change of Address (Doc. 272) seeks reconsideration of the deemed withdrawal of the Motion for a New Trial, it is **DENIED**.
2. To the extent that Plaintiff's Notice to the Court and Change of Address (Doc. 272) seeks to contest the judgment for costs (Docs. 270 & 271), the motion is **GRANTED**, and Plaintiff shall have thirty (30) days from the date of this Order to file his objections to the Judgment of Costs, his evidence in support of the objections, and his brief in support of his objections. Defendants shall respond in accordance with all applicable rules.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge